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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/628,180
Filing Date: July 28, 2003
Appellant(s): CHRISTIE, SAMUEL H.

John R. Witcher, III
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/02/09 appealing from the Office action
mailed 03/02/09

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|-----------|-----------------|--------|
| 7,245,713 | SIMPSON et al. | 7-2007 |
| 6,215,857 | KASIVISWANATHAN | 4-2001 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

Claims 1-16 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson et al. (US 7,245,713) in view of Kasiviswanathan (U.S. Patent 6,215,857).

As to claim 1, Simpson teaches a method for allowing call screening in a hosted voicemail system environment (abstract; col. 2, lines 65-67) comprising:

directing a call to a hosted voicemail system, which serves as a voicemail system for a telephone terminal (col. 1, lines 61-63; col. 6, lines 43-47);

routing the call to subscriber's telephone terminal after the call routed to the voice mail system where the calling party may leave a voice mail message for the subscriber (col. 2, lines 6-21); and

allowing the telephone terminal to monitor a message being left in the hosted voicemail system (col. 2, lines 9-12).

However, Simpson et al. does not teach the call is initially directed to the hosted voicemail system.

Kasiviswanathan teaches the call is initially directed to the hosted voicemail system (col. 2, lines 64-67; col. 4, lines 55-58).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Kasiviswanathan into the teachings of Simpson for the purpose of providing direct access by the calling party to the voice mail of the called party without disturbing the called party. For example, the calling party knows the called party is busy or does not have time for a conversation, as discussed by Kasiviswanathan (col. 3, lines 11-18; col. 2, lines 64-67), (*i.e. called party is eating dinner, etc.*).

As to claim 2, Simpson teaches allowing and means for allowing a user of the telephone terminal to take the call while the message is being left in the hosted voicemail system (col. 2, lines 12-16 and lines 29-36).

As to claim 3, Simpson teaches the called is directed to the hosted voicemail system by a telephony switch supporting the telephone terminal comprising:

establishing and means for establishing a first connection to connect the call to the hosted voicemail system (col. 1, lines 61-63);

establishing and means for establishing a second connection with the telephone terminal (col. 2, lines 6-21); and

connecting and means for establishing the first and second connections (col. 2, lines 6-21; col. 6, line 67 through col. 7, line 20).

As to claim 4, Simpson teaches sending and means for sending a first signal to the telephone terminal to open a speaker channel (col.3, lines 34-47).

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As to claim 5, Simpson teaches receiving and means for receiving a second signal from the telephone terminal indicative of the user taking the call (col. 7, lines 37-41).

As to claims 6 and 8, Simpson teaches sending and means for sending a third signal to the hosted voicemail system indicative of the user taking the call (col. 7, lines 37-45).

As to claims 7 and 13, Simpson teaches the steps of:

establishing and means for establishing a second call from the hosted voicemail system to the telephone terminal upon the hosted voicemail system receiving the call (col. 1, lines 61-63; col. 6, line 67 through col. 7, line 20);

connecting and means for connecting the call and the second call (col. 6, line 67 through col. 7, line 20),

wherein the telephone terminal will open a speaker channel upon receiving the second call to allow monitoring of the message (col. 7, lines 14-20).

As to claim 9, Simpson teaches effecting and means for effecting transfer of the call to the telephone terminal upon receiving the signal (col. 6, line 67 through col. 7, line 6).

As to claim 10, Simpson teaches the hosted voicemail system provides caller identification information related to the call with the second call (col. 7, lines 6-13).

As to claim 11, Simpson teaches the steps of:

receiving and means for receiving a feature code from the telephone terminal (col. 5, lines 46-51); and

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establishing and means for establishing a connection between the call, the hosted voicemail system, and the telephone terminal to allow monitoring of the message via a speaker channel (col. 6, line 67 through col. 7, line 20).

As to claims 12 and 14, Simpson teaches receiving a signal from the telephone terminal indicating the user taking the call (col. 2, lines 29-40; col. 7, lines 14-20) and establishing a connection to the telephone terminal to facilitate the call (col. 7, lines 15-28).

As to claim 15, Simpson teaches the telephone terminal is adapted to automatically open a speaker channel for call screening (6, line 67 through col. 7, line 20).

As to claim 16, Simpson teaches the subscriber can interrupt the voice message and accept the call, then the service node transfers the call between the subscriber and calling party to the central office or SSP hosting the SN to make available the PRI ports for other calls (col. 7, lines 37-45). Hence, there are fragments of messages resulting from call screening. It would have been obvious to one of ordinary skill in the art at the time the invention was made that in the process of making the PRI ports available for other calls the system would normally clean up fragments messages or indicate that the message should be erased in order to conserve spaces and system resource.

As to claim 33, Simpson teaches a method for allowing call screening in a hosted voicemail system environment (abstract; col. 2, lines 65-67) comprising:

detecting an incoming call intended for a telephone terminal (fig. 2, 210; col. 6, lines 12-14);

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upon answering in the incoming call at the hosted voicemail system (col. 1, lines 61-63; col. 6, lines 33-47), initiating a new call to the telephone terminal such that the incoming call and the newly initiated call are effectively connected (col. 2, lines 6-21; col. 6, line 67 through col. 7, line 20); and

allowing the telephone terminal to monitor a message being left in the hosted voicemail system (col. 7, lines 14-20).

However, Simpson does not teach forwarding the incoming call to the hosted voicemail system, which serves as a voicemail system for the telephone terminal, without attempting to establish a connection to the telephone terminal.

Kasiviswanathan teaches detecting an incoming call intended for a telephone terminal (Fig. 3, 300; col. 4, lines 37-39); the call is initially directed to the hosted voicemail system (col. 2, lines 64-67; col. 4, lines 55-58).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Kasiviswanathan into the teachings of Simpson for the purpose of providing direct access by the calling party to the voice mail of the called party without disturbing the called party. For example, the calling party needs to leave a message for the called party late at night, as discussed by Kasiviswanathan (col. 3, lines 15-18; col. 2, lines 64-67).

Claims 17-19 and 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simpson and Kasiviswanathan and further in view of Lektion et al. (US 2004/0096046).

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Claim 17 is rejected for the same reasons as discussed above with respect to claim 1. However, Simpson and Kasiviswanathan do not teach means for sending a first signal to the telephone terminal to open a speaker channel without user interaction with the telephone terminal.

Lecton et al. teaches means for sending a first signal to the telephone terminal to open a speaker channel without user interaction with the telephone terminal (page 1, [0009], lines 8-9; page 2, [0024], lines 6-10 and [0025], lines 1-4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teaching of Lecton into the teachings of Simpson and Kasiviswanathan for safety purposes and reducing disruptions while the user driving his or her car.

Claims 18-19 and 21-32 are rejected for the same reasons as discussed above with respect to claims 2-3 and 5-16, respectively.

(10) Response to Argument

Regarding Appellant's statement (Brief, pages 4 and 8-9) that "*Neither Simpson nor Kasiviswanathan teaches that the call is initially directed to the voicemail system before being directed to the telephone terminal*", Examiner respectfully submits that first of all, in order for the call is initially directed to the voicemail system, the calling party has to dial directly the voicemail system telephone number; and this is not the case because in Applicant's Specification paragraph [0019] and Fig. 3 states that the incoming call for the called party terminal 16 is first received at the switch, then

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forwarded to the voicemail system 18. Secondly, Simpson teaches a method and system for monitoring calls routed to a telephone network-based voice mail system, the called party or subscriber received a call, a determination is made as to whether the call should be routed to the voicemail system. The called party is bridged into the call between the calling party and the voice email system so that the called party can listen and monitor the message being left (see abstract; col. 2, lines 6-21 and lines 65-67; col. 7, lines 3-13). Therefore, the call is directed to the voicemail system before being directed to the telephone terminal. Simpson further teaches if the call monitoring service is not provisioned on the called party line, the incoming call is routed directly to the voicemail system (col. 6, lines 43-45). Simpson does not teach the call is initially directed to the hosted voicemail system. Kasiviswanathan teaches the call is initially directed to the hosted voicemail system (col. 2, lines 64-67; col. 4, lines 55-58). The combination of Simpson and Kasiviswanathan teaches the claimed invention.

Regarding Appellant's statement (Brief, pages 9-11) that "...*The combination of Simpson and Kasiviswanathan is improper. Simpson discloses a system where calls that are first directed to a telephone terminal are forwarded to a voicemail system and a three-way call between the caller, the called party, and the voicemail system is set up so that the call may be monitored by the called party.....Kasiviswanathan teaches away from Simpson.....because Kasiviswanathan teaches that all calls should be forwarded directly to the voicemail system without ringing the called party so that the called party is not disturbed*". Examiner respectfully disagrees. Simpson teaches two different scenarios: the first scenario is if the call monitoring service is not provisioned, the

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incoming call is routed directly to the voicemail system where the calling party may leave a voice mail message for the called party without call monitoring service (col. 6, lines 43-51); the second scenario is the incoming call routed to a telephone network-based voice mail system, called party is bridged into the call between the calling party and the voice email system so that the called party can listen and monitor the message being left (see abstract; col. 2, lines 6-21 and lines 65-67; col. 7, lines 3-13).

Kasiviswanathan teaches the call is initially directed to the hosted voicemail system without ringing the called party (col. 2, lines 64-67; col. 4, lines 55-58), which is the first scenario of Simpson. Furthermore, in response to this argument, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413,208 USPQ 871 (CCPA 1981). Examiner is using Kasiviswanathan for the teaching of only one specific the call is initially directed to the hosted voicemail system feature. The motivation to combine Kasiviswanathan into the teachings of Simpson is providing direct access by the calling party to the voice mail of the called party without disturbing the called party. For example, the calling party knows the called party is busy or does not have time for a conversation, as discussed by Kasiviswanathan (col. 3, lines 11-18).

In the combination, a caller may also prefer to directly access the voicemail of the called party for example in cases of time difference such as a west-coast caller calling

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an east-coast called party where it is "late" for the called party. Also, sometimes a calling party may wish to simply leave a message and not necessarily talk to the called party for a variety of reasons such as delivering a message to a "talkative" called party. The calling party may be busy and may wish to just leave a message and "run".

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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